

1 DAVID M. POITRAS – Bar No. 141309  
SUSAN K. SEFLIN - Bar No. 213865  
2 JESSICA S. WELLINGTON - Bar No. 324477  
BG LAW LLP  
3 21650 Oxnard Street, Suite 500  
Woodland Hills, CA 91367  
4 Telephone: (818) 827-9000  
Facsimile: (818) 827-9099  
5 Email: dpoitras@bg.law  
sseflin@bg.law  
6 jwellington@bg.law

7 Proposed Attorneys for Chapter 11 Debtor and  
Debtor in Possession

8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **SAN FERNANDO VALLEY DIVISION**

11 In re  
12 Irwin Naturals,

Case No. 1:24-bk-11323-VK

Chapter 11

13 **DEBTOR’S EMERGENCY MOTION FOR**  
14 **ORDER AUTHORIZING JOINT**  
15 **ADMINISTRATION OF CHAPTER 11**  
16 **CASES; MEMORANDUM OF POINTS**  
17 **AND AUTHORITIES AND**  
18 **DECLARATION OF KLEE IRWIN IN**  
19 **SUPPORT THEREOF**

20 [Fed. R. Bankr. P. 1015; Local  
Bankruptcy Rules 1015-1(b) and  
21 9013-1(q)]

22 [Identical Motions Filed in Related  
Cases]

23 [No hearing required pursuant to  
Local Bankruptcy Rules 1015-1(b)  
and 9013-1(q)]

24 **TO THE HONORABLE VICTORIA S. KAUFMAN, UNITED STATES BANKRUPTCY**  
25 **JUDGE:**

26 Irwin Naturals, a Nevada corporation and the chapter 11 debtor and debtor in possession  
27 herein (the “Debtor” or “Irwin Nevada”), hereby submits this emergency motion for entry of an  
28 order pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy

Rules” and each one a “Bankruptcy Rule”) and Local Bankruptcy Rule (“LBR”) 1015(b) authorizing joint administration of the Debtor’s case with the bankruptcy case of affiliates and related debtor entities Irwin Naturals Inc. (“Irwin Canada”), Bankruptcy Case No. 1:24-bk-11324-VK, DAI US HoldCo Inc. (“DAI”), Bankruptcy Case No. 1:24-bk-11326-VK, and 5310 Holdings, LLC (“Holdings,” and collectively with Irwin Nevada, Irwin Canada , and DAI, the “Debtors”), Bankruptcy Case No. 1:24-bk-11325-VK. In support of the Motion, the Debtor submits the following Memorandum of Points and Authorities and the attached declaration of Klee Irwin.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

By this Motion, the Debtor seeks to have the Debtors’ bankruptcy cases (collectively, the “Cases”) jointly administered with the Debtor’s bankruptcy case (the “Lead Case”), which will be designated as the lead case. The Debtor is not requesting substantive consolidation of Cases.

Joint administration is appropriate because the Debtors share common management, ownership, overlapping creditors, and common goals for their respective bankruptcy cases. Joint administration of the Cases will maximize the assets of the separate estates for creditors and investors by reducing expenses and will ease the administrative burden on the Court and the parties in interest. Moreover, the Debtor requests relief on an emergency basis because jointly administering the Cases will save parties and the Court significant time and expense with respect to first-day motions the Debtors intend to file shortly. Accordingly, the Debtor respectfully requests that the Court enter an order jointly administering the Cases.

### **II. FACTUAL BACKGROUND**

#### **A. General Case Background**

On August 9, 2024 (the “Petition Date”), the Debtors filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). The Debtors continue to operate their business and manage its affairs as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or committee has been appointed in the Cases.

1           **B.       Description of the Debtors’ Businesses, Ownership Structure, and Management**

2           Irwin Naturals is a nutraceutical business that has operated successfully for the most part of  
3 its history since its inception in 1994. Klee Irwin launched the Irwin Naturals brand as his first line  
4 of dietary supplements in 1994. Since that time, Mr. Irwin and his management group have operated  
5 the nutraceutical businesses. Irwin Naturals’ products are distributed in more than 100,000 retail  
6 locations primarily in the United States and Canada, including health food stores such as Whole  
7 Foods, along with mass-market retailers such as Costco, Walmart, and CVS.

8           Irwin Canada is a British Columbia corporation that is acting as the “parent company” of the  
9 Debtors. Irwin Canada does not have any employees and only transacted limited business in  
10 conjunction with its subsidiaries.

11           DAI is a wholly owned subsidiary of Irwin Canada. DAI is solely a holding company; it  
12 does not have any employees, nor has it transacted any business.

13           Irwin Nevada was incorporated in 2002 and is a wholly owned subsidiary of DAI. Irwin  
14 Nevada is the operating entity through which the nutraceutical business is conducted. Irwin Nevada  
15 has management services agreements with Irwin Canada and DAI and through those agreements,  
16 legal, accounting, and other support services are offered. Holdings is a wholly owned subsidiary of  
17 Irwin Nevada.

18           Additional information detailing the Debtors’ operations and the circumstances leading to the  
19 commencement of the Case will be described in greater detail in connection with the soon to be filed  
20 first-day motions.

21           **III.     DISCUSSION**

22           **A.       Proposed Procedure for Joint Administration**

23           The Debtor proposes the following procedures for joint administration:

24           1.       The use of a single docket (In re Irwin Naturals, Case No. 1:24-bk-11323-VK) for  
25 administrative matters, including for the filing, lodging and docketing of pleadings and orders.

26           2.       Parties in interest shall be directed to use the caption attached as **Exhibit 1** for each  
27 filing. However, each filing shall indicate which of the Debtors is affected by or is a party to the  
28 subject filing.

- 1           3.       Combined notices to creditors and parties in interest.
- 2           4.       The Debtors will file a consolidated list of the 30 largest creditors within two weeks
- 3 of approval of this Motion.
- 4           5.       Joint scheduling of hearings on proceedings in the case.
- 5           6.       Joint financial reporting by the Debtors.
- 6           7.       Joint and several liability of the Debtors' estates for allowed fees and costs of
- 7 professionals retained in the Debtors' cases.
- 8           8.       Joint handling of other administrative matters.
- 9           9.       Notice of joint administration of the estates will be separately filed and docketed in
- 10 each of the Debtors' cases and will be served on all creditors and parties in interest in each case. In
- 11 Irwin Canada, DAI, and Holdings' dockets, creditors and parties in interest shall be directed to the
- 12 case docket for the Lead Case, to locate all pleadings filed subsequent to the date on which the Court
- 13 enters an order granting this Motion.
- 14          10.      Each Debtor shall maintain its own claims register to avoid the confusion that may
- 15 result if the claims registers were consolidated.
- 16          11.      The Debtors will continue to operate, as they have in the past, as separate and distinct
- 17 entities, and will continue to maintain separate books and records to reflect all intercompany and
- 18 third-party transactions during the pendency of the Cases.

19           **B.       Emergency and Ex Parte Relief is Justified**

20           LBR 1015-1(b)(1) expressly provides that the Court may enter an order for joint

21 administration without notice or a hearing:

22                   If 2 or more cases are pending before the same judge, an order of joint

23                   administration may be entered, without further notice and an

24                   opportunity for hearing, upon the filing of a motion for joint

25                   administration pursuant to FRBP 1015 and LBR 9013-1(q), supported

26                   by a declaration establishing that the joint administration of the cases

                    is warranted, will ease the administrative burden for the court and the

                    parties, and will protect creditors of the different estates against

                    potential conflicts of interest.

27           LBR 1015-1(b) (emphasis added); *see also* LBR 9013-1(q).

28

1 Notice of the motion for joint administration is not required. Rather, the only notice required  
2 is notice of any joint administration *after* the Court grants a motion for joint administration. *See*  
3 LBR 1015-1(b)(3).

4 In the next few days, the Debtors intend to file additional first-day motions in the Cases.  
5 Without joint administration, the Debtors must file the same motion in each of their cases  
6 necessitating separate hearings before the Court, and service of the identical motions on many of the  
7 same parties in interest. A single first-day motion alone would necessitate redundant filings and  
8 hearings. Joint administration of the Cases will allow the Debtors to file and serve one motion and  
9 obtain a single hearing thereon. Thus, joint administration will save the respective estates and  
10 parties significant fees and costs. It will also avoid the potential confusion caused by numerous  
11 duplicative filings and will ease the burden on the Court and its staff.

12 Procedural authorization for granting this Motion on an emergency basis without notice or  
13 hearing is found in LBR 1015-1(b) and Bankruptcy Rule 1001, which provides that "[t]hese rules  
14 shall be construed to secure the just, speedy, and inexpensive determination of every case and  
15 proceeding." The Debtors respectfully submit that, on the facts of these cases, and in light of the  
16 Debtors' imminent filing of other first-day motions, emergency relief is both necessary and  
17 appropriate and will substantially benefit the Debtors' estates and the Court. Accordingly, the  
18 Debtors respectfully request that the Court grant this Motion, on an emergency basis, without notice  
19 or hearing.

20 **C. Joint Administrations of the Cases is Appropriate Because the Debtors are**  
21 **Affiliates**

22 Bankruptcy Rule 1015(b) provides, in relevant part, as follows:

23 If a joint petition or two or more petitions are pending in the same  
24 court by or against (1) spouses, or (2) a partnership and one or more of  
25 its general partners, or (3) two or more general partners, or (4) a debtor  
26 and an affiliate, the court may order a joint administration of the  
27 estates. Prior to entering an order the court shall give consideration to  
28 protecting creditors of different estates against potential conflicts of  
interest.

Fed. R. Bankr. P. 1015(b).

Under 11 U.S.C. § 101(2), the term “affiliate” includes:

(B) corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor, or by an entity that directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than an entity that holds such securities—

(i) in a fiduciary or agency capacity without sole discretionary power to vote such securities; or

(ii) solely to secure a debt, if such entity has not in fact exercised such power to vote;

(C) person whose business is operated under a lease or operating agreement by a debtor, or person substantially all of whose property is operated under an operating agreement with the debtor; or

(D) entity that operates the business or substantially all of the property of the debtor under a lease or operating agreement.

11 U.S.C. §§ 101(2)(B), (C), and (D).

Here, Irwin Canada is the parent company of the Debtors’ organization. DAI is a wholly owned subsidiary of Irwin Canada, Irwin Nevada is a wholly owned subsidiary of DAI, and Holdings is a wholly owned subsidiary of Irwin Nevada. Additionally, the Debtors share common management. Mr. Irwin and his management group manage each of the Debtors. Thus, the Debtors are affiliates as defined by the Bankruptcy Code, and joint administration is appropriate pursuant to Bankruptcy Rule 1015(b).

**D. Joint Administration of the Cases Will Increase the Debtors’ Chance at Reorganization and Benefit the Estates**

Bankruptcy Rule 1015(b) and LBR 1015-1(b) empower this Court to order the joint administration of two or more cases under the Bankruptcy Code. Fed. R. Bankr. P. 1015(b); LBR 1015-1(b). “Joint administration is common when a consolidated group of corporations files for bankruptcy relief. Particularly in chapter 11, the success of one affiliate’s reorganization effort may depend on the success of the other affiliates’ efforts.” *See 9 Collier on Bankruptcy*, ¶ 1015.03 (16th ed. 2014).

1 The Cases present the classic situation for joint administration as numerous cords of  
2 commonality connect the Debtors, militating in favor of the central administration of the Cases. As  
3 discussed above, the Debtors are operated by the same individuals. There is also overlap among the  
4 creditors and ownership of the Debtors. Irwin Declaration, ¶ 9. Furthermore, the Debtors have a  
5 similar goal for the Cases, i.e., the reorganization of their liabilities in a manner consistent with the  
6 Bankruptcy Code. *Id.* at ¶ 12. For these reasons, the same issues will likely arise in each of the  
7 Cases. Because of the commonalities between the Debtors, the successful resolution of one Case  
8 may depend on the outcome of the other, and joint administration will increase the chances of success  
9 for the whole enterprise.

10 Joint administration will avoid wasting resources that would result through the duplication of  
11 effort if the Cases were to proceed separately, and the same motions and applications were required  
12 to be filed in each case. The Debtors' goal is to maximize the return for creditors and investors, and  
13 avoiding unnecessary costs is important to that end. The Debtors' creditors and investors stand to  
14 benefit from the increased efficiency of joint administration because the creditors will not be  
15 required to review duplicative pleadings that would otherwise be filed in separate cases. Moreover,  
16 through joint administration of the Debtors' cases, the Court will be relieved of the burden of having  
17 to maintain and review separate dockets and case files for nearly identical pleadings. Thus, joint  
18 administration will yield significant administrative and economic benefit to the Debtors, their parties  
19 in interest, and the Court.

20 By reason of the foregoing, joint administration of the Debtors' chapter 11 cases is in the best  
21 interests of all interested parties.

22 **E. Joint Administration Will Not Adversely Affect Creditors of the Different**  
23 **Estates**

24 The rights of the Debtors' creditors will not be adversely affected by the joint administration  
25 of the Cases. The Debtors are not requesting substantive consolidation in this Motion.

26 Moreover, as discussed above, the proposed procedures require that the Debtors continue to  
27 operate, as they have in the past, as separate and distinct entities, and continue to maintain separate  
28 books and records to reflect all intercompany and third-party transactions during the pendency of

1 their chapter 11 cases. The Debtors are merely requesting procedural relief and believe that joint  
2 administration of the Cases will provide significant benefits to the Court and parties in interest while  
3 not impacting the substantive rights of the creditors of the different estates. The joint administration  
4 of the cases should, in fact, help parties in interest to protect their respective rights. Because there  
5 will be only one case docket, it will be easier for creditors to monitor proceedings that affect each of  
6 the Debtors.

7         Additionally, the Debtors share similar goals and strategies, i.e., the reorganization of their  
8 liabilities in a manner consistent with the Bankruptcy Code. The resolution of the debt owed by one  
9 Debtor may be impacted by the outcome of another Debtors' case. Irwin Declaration, ¶ 13. If a  
10 conflict of interest arises after an order authorizing joint administration is entered by the Court,  
11 Bankruptcy Rule 1015(c) provides the Court with a mechanism for protecting creditors: "When an  
12 order for consolidation or joint administration of a joint case or two or more cases is entered pursuant  
13 to this rule, while protecting the rights of the parties under the Code, the court may enter orders as  
14 may tend to avoid unnecessary costs and delay." Thus, the Court can address any conflicts that may  
15 arise after the joint administration of the Cases.

16         The Motion should be granted because it will provide greater protection to creditors' rights,  
17 and in the event that conflicts arise after an order authorizing joint administration is entered, Rule  
18 1015(c) provides the Court with a mechanism to fashion a remedy.

#### 19 **IV. CONCLUSION**

20         Based on the foregoing, the Debtor respectfully requests that the Court enter an order  
21 granting the Motion in its entirety, authorizing joint administration of the Debtors' Cases as provided  
22 herein, and granting such other and further relief as the Court deems just and proper under the  
23 circumstances.

24  
25 DATED: August 13, 2024

BG Law LLP

26 By: /s/ Susan K. Seflin  
David M. Poitras  
Susan K. Seflin  
27 Jessica S. Wellington  
28 Proposed Attorneys for Chapter 11 Debtor  
and Debtor in Possession



**DECLARATION OF KLEE IRWIN**

I, Klee Irwin, declare as follows:

1. I am the founder and Chief Executive Officer of Irwin Naturals Inc., a British Columbia corporation (“Irwin Canada”), and founder and principal of Irwin Naturals, a Nevada corporation (“Irwin Nevada”), DAI US HoldCo Inc. (“DAI”), and 5310 Holding, LLC (“Holdings,” and collectively with Irwin Nevada, Irwin Canada, and DAI, the “Debtors”). I know each of the following facts to be true of my own personal knowledge, except as otherwise stated, and if called as a witness, I could and would competently testify with respect thereto.

2. I make this declaration in support of the Motion to which it is appended. Unless otherwise defined in this declaration, all terms defined in the Motion are incorporated herein by this reference.

3. Irwin Naturals is a nutraceutical business that has operated successfully for the most part of its history since its inception in 1994. I launched the Irwin Naturals brand as my first line of dietary supplements in 1994. Since that time, my management group and I have operated the nutraceutical businesses.

4. Irwin Naturals’ products are distributed in more than 100,000 retail locations primarily in the United States and Canada, including health food stores such as Whole Foods, along with mass-market retailers such as Costco, Walmart, and CVS.

5. Irwin Canada is a British Columbia corporation that is acting as the “parent company” of the Debtors. Irwin Canada does not have any employees and only transacted limited business in conjunction with its subsidiaries.

6. DAI is a wholly owned subsidiary of Irwin Canada. DAI is solely a holding company; it does not have any employees, nor has it transacted any business.

7. Irwin Nevada was incorporated in 2002 and is a wholly owned subsidiary of DAI. Irwin Nevada is the operating entity through which the nutraceutical business is conducted. Irwin Nevada has management services agreements with Irwin Canada and DAI and through those agreements, legal, accounting, and other support services are offered.

8. Holdings is a wholly owned subsidiary of Irwin Nevada.



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8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **SAN FERNANDO VALLEY DIVISION**

11 In re  
12 Irwin Naturals *et al.*,  
13 Debtors and Debtors  
14 in Possession.

- 15 ☐ Affects Irwin Naturals  
16 ☐ Affects Irwin Naturals Inc.  
17 ☐ Affects 5310 Holdings, LLC  
18 ☐ Affects DAI US HoldCo Inc.  
19 ☐ Affects All Debtors  
20

Case No. 1:24-bk-11323-VK

Chapter 11

Jointly Administered With:

Case No. 1:24-bk-11324-VK

Case No. 1:24-bk-11325-VK

Case No. 1:24-bk-11326-VK

**[TITLE TO APPEAR HERE]**

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
21650 Oxnard St., Suite 500, Woodland Hills, CA 91367

A true and correct copy of the foregoing document entitled: Debtor's Emergency Motion for Order Authorizing Joint Administration of Chapter 11 Cases; Memorandum of Points and Authorities and Declaration of Klee Irwin in Support Thereof will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On August 13, 2024, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- **Katherine Bunker** kate.bunker@usdoj.gov
- **Jonathan Seligmann Shenson** jshenson@greenbergglusker.com,  
calendar@greenbergglusker.com;cmillerwatkins@greenbergglusker.com
- **United States Trustee (SV)** ustpreion16.wh.ecf@usdoj.gov

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (date) \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

8/13/2024  
Date

Susan K. Seflin  
Printed Name

/s/ Susan K. Seflin  
Signature